

April 16, 1999

Docket Clerk, U.S. DOT Dockets
Room PL-401
400 Seventh Street SW
Washington, D.C. 20590

Re: Docket No. FHWA-98-3656 General Requirements Inspection, Repair and Maintenance; Intermodal Container Chassis and Trailers

To Whom It May Concern:

Matson Navigation Company, Inc. ("Matson"), is a US flag carrier with service to Hawaii along the Pacific Coast and to Guam and the Mid-Pacific Islands. Our subsidiaries offer stevedoring, terminal and intermodal services. Matson owns and leases approximately 33,000 units of intermodal equipment, which are housed at nearly forty different locations throughout the country. However, the bulk of the equipment (about 32,000 units) is stored at and distributed from Matson's terminals which are located in California, Washington and Hawaii. We have the following comments to make in response to proposal of the Federal Highway Administration (FHWA) to mandate joint responsibility for the maintenance of intermodal equipment between equipment providers and motor carriers as set forth in Docket No. FHWA- 98-3656 General Requirements Inspection, Repair and Maintenance; Intermodal Container Chassis and Trailers.

Matson bears a large portion of responsibility when it comes to its intermodal equipment. We perform preventative maintenance every 90 days on all chassis at our California terminals as part of the biennial inspection of terminals (BIT) that is administered by the California Highway Patrol. Every year all of our terminals also perform a preventative maintenance (PM) inspection, as required by the FHWA. The BIT and annual PM inspections both include inspection of: frames, container locking devices, tires and wheels, landing legs, brake system, electrical system, mud flaps,

identification numbers, sliders, suspensions and lubrication (including wheel hubs). Additional requirements of the PM inspection are to check king pins and fifth wheel plates, drain brake air tanks, adjust brakes and service pintle hooks. As for the small amount of equipment that is not stored at Matson's terminals, a gate interchange inspection is performed every time the equipment enters the yard. Equipment found to be defective in any such inspection is repaired.

We take exception to proposed Section 396.7(b) of Title 49 to the Code of Federal Regulations which would disallow the interchange of a trailer, chassis or container in violation of Section 397.6(a). Such a provision seemingly places on the equipment provider absolute liability if defective equipment is provided. The proposed shift in liability is not consistent with our equipment selection and delivery system which gives motor carrier drivers ample opportunity and facilities to inspect and reject equipment. The interchange agreement we enter into with motor carriers allows drivers to refuse any equipment they believe to be damaged. Our agreement provides that the "Motor Carrier shall authorize and instruct any employee or representative who will take custody of the Equipment from Matson to inspect the Equipment, and to refuse any Equipment that is unsafe or unroadable." (Paragraph 2.2) A motor carrier driver is allowed to choose a chassis at all of our locations. Thus, the equipment initially selected is at the sole discretion of the motor carrier driver.

Furthermore, Matson makes an inspection station (roadcheck) available to all drivers before they leave the terminals. This roadcheck makes sure that the chassis and container are road-ready. If any part of the equipment is found not to be road-ready, it is either red-tagged and the driver is returned to the yard for new equipment or the repairs are made on-site. However, it should be mentioned that many drivers opt not to use this roadcheck. There is no impediment from Matson to prevent a driver from making such a check. Presumably the time spent in this operation is one factor for the driver. However, it does not seem fair to shift the entire burden of inspection to Matson if it offers this service to drivers and they do not take advantage of it.

Matson's principal container terminals maintain an extensive and constantly changing inventory of container chassis. For example, at our Los Angeles terminal, there are 900 to 1500 chassis at any given time. Approximately 350 chassis move out of the terminal each day and there are six different areas where chassis can be delivered. Both the number of chassis exchanges and the geography of the terminal make it next to impossible to establish a system for pre-checking chassis for drivers to take.

When equipment is inspected and delivered to the motor carrier driver, it is the responsibility of the motor carrier to repair damages and pay for any resulting fines. Under Matson's interchange agreement, the motor carrier is required to repair any damage incurred to equipment while in the motor carrier's custody, which is normally

about 20 days but may indeed extend to over 90 days. The length of time our equipment is in the custody of motor carriers can indeed provide opportunity for equipment damage and/or fines. We have found that the most frequent repairs made include repairing or replacing damaged or worn tires and mudflaps and replacing light bulbs, all of which may be the responsibility of the motor carrier. Fines incurred by drivers may include overweight vehicle fines, for which the motor carrier is clearly responsible, as well as fix-it vehicle repair items. In practice, we carefully review each item of repair or fine and frequently pay for repairs or fines we don't believe should be imposed on the trucker. But this is a discrete determination, not one that is reflected in the tenor of the proposed regulation. Given the practices outlined above, to impose absolute liability on equipment providers by regulation is unfair in that motor carriers can select which equipment providers they choose to do business with and negotiate satisfactory provisions in their agreements. This is not a place for a regulatory solution.

Should you have any questions concerning our comments, we would be happy to discuss this issue with you further. Please contact either the undersigned or Paul Johnescu, Matson's Director of Facilities and Maintenance at (415) 957-4675 if you should require any additional information.

Sincerely,

Gary J. North

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